Assignment

Guardianship under Islamic Law and Up-bringing of a Child

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Guardianship under Islamic Law and its Function for Care and Up-bringing of a Child

1. Introduction

Guardianship is an important concept in Islamic Personal Law. Islam gives special importance to the protection, care and upbringing of children. Since minors cannot manage their own affairs, Islamic law appoints a guardian to take care of their person, property and welfare. The main purpose of guardianship is to ensure that the child grows properly, receives education, and is protected physically, morally and financially.

2. Definition of Guardianship

Guardianship in Islamic law is called Wilayat. It means the authority given to a person to look after a minor's person, property or both. A guardian is responsible to take care of the child, manage his property, and make decisions for his benefit.

3. Kinds of Guardianship in Islamic Law

There are four kinds of guardianship in Islamic law: guardianship of person, guardianship of property, guardianship in marriage, and de facto guardian.

4. Guardianship of Minor's Person (Hizanat)

Guardianship of person means custody and upbringing of the child. Mother has the first right of custody because she can provide love, care and attention. For a boy, custody usually remains with mother up to 7 years, and for a girl until puberty.

5. Guardianship of Property of Minor

Guardianship of property means managing minor's wealth and protecting it. Father is the natural guardian of property. After him, paternal grandfather and executor may act as guardian.

6. Who Can Be Guardian

The order of guardians is father, paternal grandfather, executor of father, executor of grandfather, and court appointed guardian.

7. Functions of Guardian for Care and Upbringing

Guardian must provide maintenance, education, healthcare, moral training and protection. He must manage minor's property honestly and act in the best interest of the child.

8. Disqualification of Guardian

A guardian may be removed if he is dishonest, neglects the child, misuses property, becomes insane or acts against minor’s interest.

9. Powers and Limitations of Guardian

Guardian can manage property but cannot misuse it. He must act in good faith and protect minor’s interest.

10. Conclusion

Guardianship under Islamic law ensures protection and proper upbringing of children. The guardian must take care of education, health, property and moral training. The objective is welfare of the minor.